

Jeanna M. Wacker (admitted *pro hac vice*)  
jeanna.wacker@kirkland.com  
Christopher Jagoe (admitted *pro hac vice*)  
christopher.jagoe@kirkland.com  
Sam Kwon (admitted *pro hac vice*)  
sam.kwon@kirkland.com  
Christopher Ilardi (admitted *pro hac vice*)  
chris.ilardi@kirkland.com  
KIRKLAND & ELLIS LLP  
601 Lexington Avenue  
New York, NY 10022  
Tel. (212) 446-4800  
Fax (212) 446-4900

Don J. Mizerk (SBN: 208477)  
HUSCH BLACKWELL LLP  
120 South Riverside Plaza, Suite 2200  
Chicago, Illinois 60606

1999 Harrison Street, Suite 700  
Oakland, CA 94612  
Telephone: (312) 655 1500  
Facsimile: (312) 655 1501  
don.mizerk@huschblackwell.com

*Attorney for Defendant  
Handa Oncology, LLC*

Yan-Xin Li (SBN 332329)  
yanxin.li@kirkland.com  
KIRKLAND & ELLIS LLP  
555 California Street  
San Francisco, CA 94104  
Tel. (415) 439-1400  
Fax (415) 439-1500

*Counsel for Plaintiff  
Bristol-Myers Squibb Company*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

BRISTOL-MYERS SQUIBB COMPANY,  
  
Plaintiff,  
  
v.  
  
HANDA ONCOLOGY, LLC,  
  
Defendant.

CASE NO. 3:22-CV-06968-TLT

**JOINT CLAIM CONSTRUCTION  
AND PREHEARING STATEMENT**

Pursuant to Local Patent Rule 4-3 and the Scheduling Order (Dkt. 35), Plaintiff Bristol-Myers Squibb Company (“BMS”) and Defendant Handa Oncology, LLC (“Handa”) submit this Joint Claim Construction and Prehearing Statement regarding U.S. Patent Nos. 7,491,725 (the “’725 Patent”) and 8,680,103 (the “’103 Patent”). Copies of the ’725 and ’103 Patents are filed on the docket at ECF Nos. 1-1 and 1-2, respectively.

**I. LOCAL PATENT RULE 4-3(A): AGREED CONSTRUCTIONS**

The parties agree on the following constructions:

| <u>Term</u>  | <u>Agreed Construction</u>  |
|--|---|
| “therapeutically effective amount”<br>(appears in ’725 Patent claims 4, 13–14) | An amount that, when administered alone or an amount when administered with an additional therapeutic agent, is effective to prevent, suppress or ameliorate the disease or condition or the progression of the disease or condition. |
| “therapeutically acceptable amount”<br>(appears in ’103 Patent claim 1)        | An amount that, when administered alone or an amount when administered with an additional therapeutic agent, is effective to prevent, suppress or ameliorate the disease or condition or the progression of the disease or condition. |

## **II. LOCAL PATENT RULE 4-3(B): DISPUTED TERMS, PROPOSED CONSTRUCTIONS, AND SUPPORTING EVIDENCE**

Each party’s proposed construction of each disputed term (and/or statement that no special construction is necessary), and an identification of intrinsic and extrinsic evidence is attached as Appendix A.

## **III. LOCAL PATENT RULE 4-3(C): MOST SIGNIFICANT TERMS**

The parties agree that there are no disputed terms whose construction will be most significant to the resolution of the case and there are no disputed terms whose construction will be case or claim dispositive.

## **IV. LOCAL PATENT RULE 4-3(D): ANTICIPATED HEARING LENGTH**

The parties propose that the Claim Construction Hearing consists of a two-hour presentation, with one hour allotted to each side.

## **V. LOCAL PATENT RULE 4-3(E): PROPOSED WITNESSES**

The parties do not propose to call any witnesses at the Claim Construction Hearing.

## **VI. LOCAL PATENT RULE 4-3(F): REQUESTED FACTUAL FINDINGS**

The parties do not request any factual findings for the purposes of claim construction.

1 DATED: June 5, 2023

2 /s/ Yan-Xin Li

3 Yan-Xin Li (SBN 332329)  
4 yanxin.li@kirkland.com  
KIRKLAND & ELLIS LLP  
5 555 California Street  
San Francisco, CA 94104  
6 Tel. (415) 439-1400  
Fax (415) 439-1500

7 Jeanna M. Wacker (admitted *pro hac vice*)  
8 jeanna.wacker@kirkland.com  
Christopher Jagoe (admitted *pro hac vice*)  
9 christopher.jagoe@kirkland.com  
Sam Kwon (admitted *pro hac vice*)  
10 sam.kwon@kirkland.com  
Christopher Ilardi (admitted *pro hac vice*)  
11 chris.ilardi@kirkland.com  
KIRKLAND & ELLIS LLP  
12 601 Lexington Avenue  
New York, NY 10022  
13 Tel. (212) 446-4679

14 *Attorneys for Plaintiff*  
15 *Bristol-Myers Squibb Company*

/s/ Don J. Mizerk

Don J. Mizerk (SBN: 208477)  
HUSCH BLACKWELL LLP  
120 South Riverside Plaza, Suite 2200  
Chicago, Illinois 60606

1999 Harrison Street, Suite 700  
Oakland, CA 94612  
Telephone: (312) 655 1500  
Facsimile: (312) 655 1501  
don.mizerk@huschblackwell.com

*Attorney for Defendant*  
*Handa Oncology, LLC*

**ATTESTATION**

In accordance with Civil Local Rule 5-1(h)(3), I attest that concurrence in the filing of this document has been obtained from any other signatory to this document.

/s/ Yan-Xin Li

Yan-Xin Li (SBN 332329)  
yanxin.li@kirkland.com  
KIRKLAND & ELLIS LLP  
555 California Street  
San Francisco, CA 94104  
Tel. (415) 439-1400  
Fax (415) 439-1500